

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

INDICTMENT 12 CR 604 (RA)

-against-

DEFENDANT'S SUPPORTING

ROBERT BURKE,

DECLARATION

Defendant.

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ROBERT BURKE, hereby declares under penalty of perjury pursuant to 28 U.S.C. sec. 1746, that the following is true and correct.

1. I am one of the defendants in the above-captioned criminal proceeding.
2. This declaration is respectfully submitted in support of my various applications for relief including motions for:
 - a. An order pursuant to Rules 12 (b) (3) and 41 of the Federal Rules of Criminal Procedure and the Fourth Amendment to the United States Constitution, suppressing physical evidence and the derivative fruits thereof, as described below;
 - b. An order granting leave to join in those motions filed by co-defendants that are arguably applicable to me;
 - c. An order for such other and further relief as the Court may deem just and proper.
3. Robert Blossner, Esq. is my attorney, and I rely upon him to make all legal arguments on my behalf. Mr. Blossner has helped me to draft this declaration, although the facts in this declaration were provided by me.
4. I have been told by my attorney that anything I say in this declaration may not be used by the government on its direct case against me. I have been further advised and understand that if I testify at the trial of the charges against me, and state something different from that which is contained in this declaration, according to Mr. Blossner, the government may use this declaration to impeach my credibility by proving that I made a prior inconsistent statement.

5. Being aware of the above circumstances, I hereby declare that I was employed at, and did work in 518 Timpson Place, Bronx, New York. I was so employed there during the time periods mentioned in the magistrates complaint and indictment that I have been charged in.
6. My employment consisted of janitorial type work, including the removal of refuse that had been left in the premises.
7. The refuse consisted of lumber, wire cable, broken or unused electrical and lighting equipment, and small plastic bags of garbage.
8. I never carried hose out of the building, but I did carry out coils of bx type cable. Part of my compensation for doing the above tasks was that I could and did sell the cable and other metal material I removed at a salvage yard.
9. I believe that I have the right to contest the legality of the Court orders authorizing the search of the premises. I respectfully request that my attorney be permitted to contest the issuance of said orders, and that I be further permitted to join the attack made by any other defendant's attorney.
10. It has been explained to me that I did have the right to an expectation of privacy in my workplace, and as such, I invoke such right and join my lawyer's motions.
11. I declare under penalty of perjury pursuant to 28 U.S.C. 1746 that the foregoing is true and correct. I have executed the above document at my home as I am confined thereto under restraint of house arrest.

Dated: New York, New York
November 24, 2012



ROBERT BURKE